

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED  
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In re Application of )

Hans SACHSE )

Serial No. 09/742,354 )

Filed: December 22, 2000 )

For: PROBE FOR SMALL INTESTINES )

Art Unit: 3763

Examiner: Ghafoorian

AUG 09 2004

**OFFICIAL**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, PO Box 1450, Alexandria, VA 22313-1450, on:

October 27, 2003Date of Deposit Herbert B. KeilPerson Making Deposit Herbert B. KeilSignature October 27, 2003

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Honorable Comm'r. of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.144

Applicants hereby petition to the Honorable Commissioner to review the final Restriction Requirement of April 22, 2003. Specifically, applicants request the Office to rejoin claims 11-13 with the other elected claims and to give further consideration to these claims on the merits.

Statement of Facts

This application was filed on December 22, 2000. The Examiner issued a first requirement for election and restriction on September 12, 2002. Applicants responded on January 13, 2003 by amending the claims, electing Species A--figure 1, and presenting arguments traversing the restriction requirement. In an Office action of April 22, 2003, the Examiner indicated that the Restriction Requirement was final and that

Hans SACHSE, Serial No. 09/742,354

### APPENDIX

1. A probe for small intestines comprising  
a probe tube (4) comprising a tip area (6) and a tip (2) having an outlet opening (1), and  
a guide stylet (5) with a shape with a curved tip area (6'),  
wherein the probe tube (4) and the guide stylet (5) each have a flexibility such that, in the absence of an external force, the shape of the guide stylet (5) is substantially imparted on the tip area (6) of the probe tube (4) when inserted therein.
2. The probe of claim 1, wherein the probe tube (4) is more flexible in the tip area (6) than in the rest of the tube.
3. The probe of claim 1, wherein the guide stylet has a spherically shaped tip (11).
4. The probe of claim 1, wherein the probe tube is thinner in the tip area (6) than in the rest of the probe tube (4).
5. The probe of claim 1, further comprising additional outlet openings (3) in the tip area (6).
6. The probe of claim 1, wherein the probe tube (4) is made from a plastic material.
7. The probe of claim 1, wherein the guide stylet (5) is made from a metal having a memory-effect.
8. The probe of claim 1, further comprising a termination (8) for connecting the guide stylet (5) to the probe tube (4).

Hans SACHSE, Serial No. 09/742,354

9. The probe of claim 1, further comprising a fluid injection connector (7) on the probe tube (4).

10. The probe of claim 1, wherein the guide stylet (5) is sufficiently flexible so that it does not impart its shape on the probe tube (4) when the probe tube (4) is inserted in a human esophagus.

11. The probe of claim 1, wherein the probe tube comprises an outer tube and an inner stiffening tube (14) which does not extend into the tip area (6) of the probe tube (4).

12. The probe of claim 11, wherein the inner stiffening tube (14) is sufficiently rigid so that when the inner stiffening tube (14) and the guide stylet (5) are inserted into the probe tube (4), the guide stylet (5) does not substantially impart its shape on the inner stiffening tube (14).

13. The probe of claim 1, further comprising a sheath (13) on the probe tube (4) which is sufficiently rigid so that when the guide stylet (5) is inserted into the probe tube (4), the guide stylet (5) does not substantially impart its shape on the probe tube (4).

14. A process for delivering fluid to small intestines with a probe,  
said probe comprising  
a probe tube (4) comprising a tip area (6) and a tip (2) having an outlet opening (1), and

a guide stylet (5) with a shape with a curved tip area (6'),  
wherein the probe tube (4) and the guide stylet (5) each have a flexibility such that, in

the absence of an external force, the shape of the guide stylet (5) is substantially imparted on the tip area (6) of the probe tube (4) when inserted therein

said process comprising the steps of

inserting the probe tube (4) into a patient's stomach by way of the patient's esophagus,

inserting the guide stylet (5) into the probe tube (4) thereby causing the shape of the guide stylet (5) to be substantially imparted on the tip area (6) of the probe tube (4),

inserting the tip (2) of the probe tube (4) into the patient's small intestines by way of the patient's pylorus, and

passing the fluid through a lumen (9) and the opening (1) of the probe tube.

15. The process of claim 14, further comprising the step of spraying X-ray contrast medium into the probe tube (4) prior to inserting the tip (2) of the probe tube (4) into the small intestines.

16. The process of claim 14, further comprising inserting a second straight stylet into the probe tube (4) prior to inserting the probe tube (4) into the stomach.

17. The process of claim 14, wherein the probe tube comprises an outer tube and an inner stiffening tube (14) which does not extend into the tip area (6) of the probe tube (4).

October 27, 2003

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